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C O N F I D E N T I A L SECTION 01 OF 04 BAGHDAD 003007

SIPDIS

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TAGS: [PGOV](#) [KDEM](#) [IZ](#)

SUBJECT: SUNNI CONSTITUTION DRAFTERS COMMITTED TO AUGUST 15

DEADLINE: THE BIG ISSUE IS FEDERALISM

REF: BAGHDAD 3000

Classified By: Charge d'Affaires David Satterfield.  
Reasons 1.4 (B) AND (D).

1. (C) SUMMARY: Two principal members of the newly appointed members to the Constitutional Committee told us July 18 that they are committed to finishing a draft by August 15 if possible but they are opposed to a federalist vision of Iraq. An influential member (who was subsequently murdered on July 19) of the 15-member Sunni negotiating team has suggested either decentralizing authority to the provinces. Another tactic that all Sunnis agree on is delaying resolution of the most contentious questions until the convening of the next assembly after December's elections. We are urging them to stay in the game (which may prove difficult; both an UN advisor and representative of the Sunni Waqf report the Sunni drafters will withdraw from the committee), continue to promote solutions to ensure the unity of Iraq and seek compromise on the type of federalism all parties can live with. It appears unlikely that the Kurds will negotiate their existing regional government authorities. The Shia are unlikely to accept regional Shia conglomerations having fewer authorities than the Kurds already enjoy. In this situation, it will be easier for the Kurds and Shia to repeat the experience of last spring's cabinet formation and make a separate deal and then presenting a fait-accompli to the more rigid Sunni Arabs. We will continue our efforts to convince the Sunni Arabs that federalism would be a vehicle to protect their interests. END SUMMARY.

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Sunnis Lay Out Dispute with Federalist Vision  
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2. (C) Sunni supplemental member of the Constitutional Drafting Committee, Mujbil Ali Haseen al Shaykh Issa told PolCouns on July 18 (prior to his assassination) that the Kurds were pushing their version of federalism for the south. He appeared resolutely opposed to language allowing any provinces to form a regional government aka the KRG model. He laid out two key reasons. First, he said that regions that control security, court systems and all economic policy would have the attributes of states and sooner or later would succeed from Iraq. They would also be subject to greater influence from outside powers. Shaykh Issa postulated the Shi'ite citizenry was not even in favor of this interpretation of federalism. Al Issa accused the Kurds of pursuing 'confederalism' rather than 'federalism' and described their demands as 'asking for the moon'.

3. (C) PolCouns countered that the international community supported the vision of a federal Iraqi state in UNSCR 1546. There would be no going back to the old style of the Iraqi state. He asked Shaykh Issa if it would be really better for residents of Anbar or Ninewa to have governors appointed by a (likely) Shia-dominated government in Baghdad, for example. Shaykh Issa said he approved the concept of decentralization, but not federalism. Administrative authorities, such as management of electricity, water, roads and health could be left to provincial or even regional authorities. Political authorities, such as the power to legislate or to manage the judicial system, had to be left to the central government. Shaykh Issa claimed that left alone to legislate every province in southern Iraq, and most of the Sunni provinces as well, would become entirely religious governments. If an issue like social policy were left to these governments, in the southern provinces "it'd be like under the Taliban - you wouldn't see a woman's face". In addition, he feared the Sunni Arabs would be left with little revenue. He welcomed PolCouns' note that the U.S. was urging ownership of natural resource revenues remain with the national government. PolCouns added that strong constitutional protections of individual and community rights could minimize the problem of extremists' dominating local politics. Shaykh Issa shot back that Iraq has no history of respecting rule of law, and the Sunni Arabs' current

experience is not encouraging.

14. (C) Shaykh Issa said that if the Shia and Kurds want governorates to have legislative and judicial powers, the Sunni Arabs would agree as long as governorates are not allowed to join into regions. This way they would not be tempted to break away into independent states.

15. (C) The Iraqi Islamic Party's Dr. Ayad Samarra'i, also a member of the 15 person Sunni team, asserted to Poloff July 18 that the southern Shi'ites were being manipulated by 'others' into forming a Southern Regional Government amid conditions that were not 'permissive'. (Comment: Samarra'i was most likely pointing to pro-Iranian political parties. End Comment.) Samarra'i further stipulated that the formation of any regional government should be subject to a national (rather than regional) referendum. Also, there should be a clause allowing provinces that become disenchanted with their regional bloc to secede.

16. (C) Samarra'i cautioned he was not opposed to future regionalization in principle. Should, for example, Maysan and Basra one-day wish to join that would be 'an administrative question' for the National Assembly. Nonetheless, at this stage it is simply too dangerous to the unity of the nation. He noted ethnic/sectarian tensions and/or intimidation is already leading to the displacement of ethnic or sectarian minorities. The application of further regionalization, based on 'geographic' or ethnic basis, e.g. could fuel the flight of Sunnis from Basra. The formation of a Southern Regional Government, consisting of either a minimum of three to a maximum of all of the nine Shi'ite provinces would lead to a similar (reactive) Sunni initiative. The de facto result would be three states: Shia, Sunni and Kurdish. He also observed a nine-province Southern Regional Government (an idea he claimed was supported by Ayatollah Sistani) would exert too much influence on the central government.

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Moving Forward, Sunni Endgame?  
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17. (C) Shaykh Issa told us that the border issue was exceptionally sensitive. He had seen the Kurdish map mentioned in ref A and scoffed at its seriousness. A resident of Kirkuk himself, he said Kirkuk should be addressed later and outside the constitution, including the tough issue of Kirkuk's borders. His conclusion was that the toughest issues in general should be postponed until after the December 2005 elections.

18. (C) Samarra'i noted the individual members (from all factions) of Constitutional Drafting committee had clearly established their ideological positions over a week beforehand. Now -- for the last three days -- drafters were simply reiterating their stances. He advocated getting down to the business of drafting the text and then turn over the issues that are unresolved to their political party leaders. While he noted, "a bad constitution (by August 15) was better than no constitution", he indicated the Sunnis do have a contingency plan if they are dissatisfied with the final draft. Observing "that many" may change their position during the two month period for discussion (August 15 - October 15), Samarra'i said the Sunni Arabs would use this period to poll their constituents, consult internally and then make a decision whether to urge their supporters to vote for or against. He refuted the possibility of a Sunni walk-out from the drafting process, but left open the possibility that if the Sunni Arab politicians cannot convince their constituents that the document was the best compromise possible -- and that it was superior to the Transitional Administrative Law -- they'd oppose the passage of the referendum.

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Other Problem Areas  
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19. (C) Shaykh Issa listed several other points of contention. He thought they could be resolved, but there is no immediate resolution in sight. These include

-- whether to call the country the Republic or Federal Republic of Iraq;

-- how to handle the issue of the Arab identity of

Iraq;

-- whether to allow dual nationality (the Sunnis oppose);

-- whether Kurdish should be a national language with Arabic;

10. (C) COMMENT: Samarra'i, his usual dour, but sharp-witted self was nervous about the course of negotiations; he was dubious that an agreement suitable to the Sunni Arabs could be found. Shaykh Issa was less visibly downbeat. He displayed ideological rigidity, but his recognition of decentralization may leave some room to negotiate up. The problem is that the Kurds won't negotiate down, and the Shia are unlikely to accept regional Shia conglomerations having fewer authorities than the Kurds already enjoy. In this situation, it will be easier for the Kurds and Shia to repeat the experience of last spring's cabinet formation and make a separate deal and then present a fait-accompli to the more rigid Sunni Arabs. It is hard to see how the Sunni Arabs would in turn accept such a negotiating tactic and return to their own bases and try to sell the Shia/Kurdish position. We will continue to explain to the Sunni Arab community how federalism will protect their interests and urge the Interior Ministry to start addressing the allegations of human rights abuses that lie just beneath the surface of almost any conversation we have with Sunni Arabs now.

11. (C) COMMENT/BIO CONTINUED. Mujbil Ali Haseen al Shaykh Issa was born July 1, 1957 and maintained a home in his native village (and insurgent stronghold) Hawija as well as in Kirkuk. He was assassinated on July 19. (Ref A) He said he once served at the Ministry of Foreign Affairs. He noted that he, with Dhamin Hasan Aleiwi (a member of the Sunni Constitutional 'expert' committee, assassinated alongside Shaykh Issa) and an Akhmet Horshi started the Kirkuk University's faculty of law. He said shortly after the arrival of the CF the Kurds passed false information to the American military leading to his detention. He was released after one week. He also served as legal council to several Amman-based international firms and claimed an income of 10-15,000 USD per month. He said his name was proposed as a candidate for the Governing Council and Iraqi Interim Government Minister of Industry and Minerals. We heard his name mentioned a possible minister during the messy government formation in May. As with his nomination to the Constitution Committee there was significant Kurdish opposition to his candidacy. He admitted, smiling, they classified him as 'anti-federalist'. Issa said he'd recently formed a political party called al Qarar, the 'Decision,' with fellow National Dialog member, Professor D. Nabeal M.S. Younis (of International Relations and Public Policies, Baghdad University.) Issa reported he was single and was a blog afficiando, honing his English through chatting. He, in the consistent manner of most Sunni politicians, ridiculed his colleagues. He mentioned if Hatem Mukhlis tried to hitchhike in his hometown of Tikrit, no one would pick him up (he's so little known). Extremely tall (approximately 6'5") and fashionably dressed, Issa confessed his profound indignity of incarceration with common criminals by the Americans. Nonetheless, he energetically urged we 'rebuild' the bridges between the Sunnis and the USG, and offered to serve as a facilitator with new influential and legitimate representatives of the minority. Outwardly secular and liberal, his death may lead to shift toward the hard-line element in the nascent Sunni leadership. Already, (Ref A) the two moderate Sunnis who left the committee were replaced by conservative ideologues with likely strong ties to the insurgency.

12. (C) COMMENT/BIO CONTINUED. Shaykh Muhammad Tahir al-Abid Rabbo al-Jaburi, another added Sunni Arab member of the Constitution Drafting Committee was born in 1956 in Mosul and is a leading shaykh of the Jaburi tribe. He holds a law degree and is currently enrolled as a student at the Sharia Academy in Mosul. He served as an officer in the Iraqi Army for over a decade before being arrested in 1996 on charges of plotting a coup. Jaburi acknowledges now that the charges were true, but says the plan never came close to fruition. Jaburi says he adamantly refused for years to put a picture of Saddam Husayn in his home, a small rebellion seen as suspicious at the time, and he let his Ba'ath Party membership lapse in 1993 after joining in a pro forma fashion. After the charge of treason, he was sent to one of the Ba'athist state's most notorious prisons, al-Hakimiyya, which he claims

makes the feared "Palace of the End" prison seem "like tourism." Jaburi spent about 6 months in prison before using connections to the prison warden to secure his release. He returned to Mosul and decided to run for the "People's Assembly," the former Saddam-era parliament, in 2000. Jaburi says Revolutionary Council Deputy Chairman Izzat Ibrahim al-Duri saw his candidacy and the popular support he was drawing as a threat and saw to it that Jaburi's name was pulled off the ballot. By that point, Jaburi said, he had come to the conviction that Saddam Husayn needed to go "even if Satan himself came to replace him." It was in that spirit that he welcomed U.S. forces to Mosul in 2003 and served on the first city government in May, 2003. Jaburi also holds a degree in engineering but appears to derive his income from his assets and influence as a tribal leader in Mosul. He prides himself on his independence and is considering running in the next elections on a slate with other leaders without formally joining any political party. A self-professed lover of women, he is married with four wives and claimed to be single while chatting up a female Rashid Hotel employee after a recent meeting with PolOff. END COMMENT.

Satterfield